



GEORGE DALE
Commissioner of Insurance
State Fire Marshal

LEE HARRELL
Deputy Commissioner

STATE OF MISSISSIPPI
Mississippi Insurance Department

501 N. West Street
1001 Woolfolk Building (39201)
Post Office Box 79
Jackson, Mississippi 39205-0079
(801) 359-3569
<http://www.doi.state.ms.us>

March 24, 2006

Mr. Allen McGlynn
State Farm Fire and Casualty Company
285 Peachtree Center Ave., Suite 1200
Atlanta, Georgia 30303

ALSO SENT VIA FACSIMILE
(404) 335-2005

Re: Interpretation Of Concurrent Causation Provision As Applied To Hurricane Katrina Claims

Dear Mr. McGlynn:

The Mississippi Department of Insurance ("Department") is continuing to receive complaints from insureds of State Farm Fire and Casualty Company ("State Farm" or "Company") concerning the Company's interpretation and application of the concurrent causation provision found in Section I 2. of State Farm's standard Homeowners Policy. More specifically, we are hearing from your insureds who have slab claims as a result of Hurricane Katrina who complain that State Farm is supposedly taking the position that even if a dwelling suffered wind damage prior to the arrival of storm surge, no claim payment for wind damage is due since the water would have washed the structure away anyway, notwithstanding the damage caused by wind. If this is State Farm's position, it is contradictory to representations made by State Farm to Department representatives.

The operative provision in Section I 2. of your policy provides in pertinent part, as follows:

We do not insure under any coverage for any loss which would not have occurred in the absence of one or more of the following excluded events. We do not insure for such loss regardless of: (a) the cause of the excluded event; or (b) other causes of the loss; or (c) whether other causes acted concurrently or in any sequence with the excluded event to produce the loss; or (d) whether the event occurs suddenly or gradually, involves isolated or widespread damage, arises from natural or external forces, or occurs as a result of any combination of these:

c. Water Damage, meaning:

- (1) flood, surface water, waves, tidal water, tsunami, seiche, overflow of a body of water, or spray from any of these, all whether driven by wind or not;

It is the Department's interpretation of the foregoing provision that while loss subject to the water damage exclusion generally is not covered, loss resulting from any damage caused by wind is clearly covered. Thus, the loss must be apportioned and any wind damage claim paid regardless of whether tidal surge/water subsequently washed the structure away or caused other damage.

In an attempt to alleviate any further confusion, you are hereby directed to furnish to this Department a detailed written explanation concerning State Farm's interpretation and application of the concurrent causation policy provision discussed above as same is being applied to Hurricane Katrina victims, particularly those with slab claims. Your written explanation must be furnished within seven working days from the date of this letter.

I draw your attention to Bulletin No. 2005-6, issued by Commissioner Dale on September 7, 2005, which provides as follows with respect to slab claims resulting from Hurricane Katrina:

In some situations, there is either very little or nothing left of the insured structure and it will be a fact issue whether the loss was caused by wind or water. In these situations, the insurance company must be able to clearly demonstrate the cause of the loss. I expect and believe that where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured. In instances where the insurance company believes the damage was caused by water, I expect the insurance company to be able to prove to this office and the insured that the damage was caused by water and not by wind.

This Bulletin clearly directs insurers to bear the burden of proving the cause of the loss. If the insurer believes the loss was caused solely by water, then the insurer must be able to prove that the damage was caused by water and not by wind.

In a related Bulletin issued by the Commissioner on February 3, 2006 (Bulletin No. 2006-2), insurers were instructed to review and take into consideration eyewitness accounts of damage as well as damage to neighboring structures in addition to other evidence compiled by the claimant before making a final decision concerning Hurricane Katrina claims involving the wind vs. water issue. This Bulletin was issued out of a concern that some insurers were possibly basing claims decisions solely on paid structural engineer's reports without reviewing or considering other evidence offered by the insured.

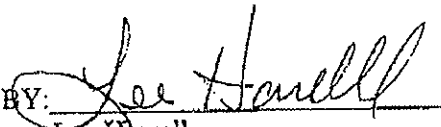
I wish to take this opportunity to remind you that State Farm is required to comply with both of the aforementioned Bulletins as it considers slab claims and the wind vs. water issue resulting from Hurricane Katrina. Further, you are directed to advise in writing what steps you are taking to comply

with the directives of Bulletin 2006-2, which require you to fully consider eyewitness accounts and other evidence compiled by the insured prior to making a claims decision. In addition, I would like to know how eyewitness accounts and other evidence furnished by the insured are being considered by State Farm with respect to Hurricane Katrina claims. Your written response addressing State Farm's compliance with Bulletin 2006-2 should be furnished to the Department within seven working days from the date of this letter.

Your cooperation with the directives set forth herein will be greatly appreciated. If you have any questions regarding these issues, please contact me.

Sincerely,

GEORGE DALE
COMMISSIONER OF INSURANCE

BY: 
Lee Harrell
Deputy Commissioner

State Farm Insurance Companies®

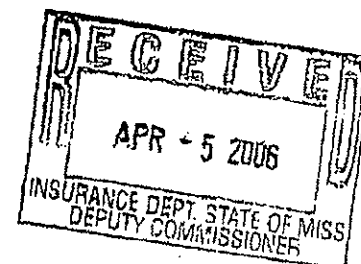


Southern Zone
11350 Johns Creek Parkway
Duluth, Georgia 30090-0001

March 31, 2006

Lee Harrell, Deputy Commissioner
Mississippi Insurance Department
501 N. West Street
1001 Woolfolk Building (39201)
P.O. Box 79
Jackson, Mississippi 39205-0079

Also Via FAX !
(601) 359-2474



RE: Response to Hurricane Katrina Claim Inquiry

Dear Mr. Harrell:

I am writing in response to your March 24, 2006 letter to Allen McGlynn, requesting information regarding State Farm's claim handling of Hurricane Katrina losses. Responses to your specific inquiries appear below. We appreciate the opportunity to comment on these areas.

In response to your request for a detailed explanation of State Farm's handling, interpretation, and application of the concurrent causation provision in our policy, our practice is that where credible evidence demonstrates that wind caused damage to the structure prior to the storm surge, State Farm is paying for wind damage that can be substantiated. We are seeking proof that indicates that the wind caused the damage to the item or items being claimed. When evidence shows that the hurricane winds (or objects driven by those winds) and rains entering the insured premises caused by the hurricane winds proximately caused damage to the insured property, those losses will be covered under the policy, and this will be the case even if flood damage, which is not covered, subsequently occurred. This restatement of Mississippi law was recently recited by Judge Senter in *Buente vs. Allstate*. State Farm abides by this standard.

In response to your request for a written list of steps that State Farm takes to comply with the directives of Bulletin #2006-2 to gather evidence and information about the cause of the loss and consider eyewitness testimony, it is our practice when determining the cause of loss to consider all relevant information, including, but not limited to:

- Evidence gathered at the on site inspection. This includes documentation of physical evidence such as water lines, an examination of the debris, and an analysis of the physical damage to the structure.
- Evidence gathered at neighboring locations.
- Data obtained from reports describing damage to the area.
- Information from witnesses and policyholders.
- Input from experts that may be retained to provide guidance.


In using this type of comprehensive review of all information, we are administering claims in accordance with the directives outlined by the Mississippi Department of Insurance in Bulletin #2005-6 and Bulletin #2006-2. It remains our objective to consider any and all evidence available in order to assure we make the appropriate claim decision.

In response to your inquiry as to our handling of the claims where only a foundation remains, please know that we handle each claim on it's own merits and pay what we owe based on our contract with the policyholder. We use the steps outlined above in order to fully and fairly consider the claims of each of our policyholders. But when the investigation indicates that the damage was caused by excluded water and the investigation does not indicate independent windstorm damage to separate portions of the property, there is no coverage available under the homeowner's policy.

Deputy Commissioner, in the wake of Katrina, State Farm has handled over 106,000 auto, homeowner's, and commercial property claims for our customers and paid benefits of over \$1.1 billion. This does not include payments under the National Flood Insurance Program. When handling that many claims, we realize that misunderstandings may occur. If you are aware of any State Farm insureds that need additional contact or assistance with their claim, please forward those inquiries to us so that we can address their concern.

We appreciate the opportunity to respond to your questions. If you have any further questions or concerns, please feel free to contact me.

Sincerely,


James Burwell CPCU, CLU
Claims Manager
State Farm Fire and Casualty